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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/759,635	01/12/2001	Scott J. Kurowski	68585	2245

22242 7590 08/19/2005

FITCH EVEN TABIN AND FLANNERY  
120 SOUTH LA SALLE STREET  
SUITE 1600  
CHICAGO, IL 60603-3406

EXAMINER
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HARRELL, ROBERT B

ART UNIT	PAPER NUMBER
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2142

DATE MAILED: 08/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/759,635

Applicant(s)

KUROWSKI ET AL.

Examiner

Robert B. Harrell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 15-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 January 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>see attached Office Action</u> .       |

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1. Claims 1-55 are presented for examination.
2. In response to the restriction requirement mailed 26 July 2004, the applicant elected claims 15-36 (Group III) for further consideration. However, since the applicant failed to traverse the requirement, nor presented arguments rebutting the requirement as wrong, as of date, the election of claims 15-36 is treated as an election without traverse and thus the 26 July 2004 restriction requirement is hereby maintained as FINAL and incorporated in totality into this Office Action by reference and continues.
3. Claims 1-14 and 37-55 are withdrawn from further consideration.
4. Claims 15-36 remain for further consideration as herein.
5. The Oath and/or Declaration is defective as it lacks the signature of all inventors, specifically for Scott J. Kurowski. While the applicant's 13 June 2005 remarks makes reference that there already is such a signed Declaration, along with Post Card Receipt and a 13 June 2005 submitted second copy, none still is of record (i.e., lost). Thus, a duplicate copy is again requested to make the record of this copy of the application within the Office synchronously up-to-date.
6. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. The claims are more directed to ***a networked system of clients and servers for distributing workloads among the clients for distributed processing using clients' idle CPU time.***
7. The applicant should use this period for response to thoroughly and very closely proof read and review the whole of the application for correct correlation between reference numerals in the textual portion of the Specification and Drawings along with any minor spelling errors, general typographical errors, accuracy, assurance of proper use for Trademarks <sup>TM</sup>, and other legal symbols ®, where required, and clarity of meaning in the Specification, Drawings, and specifically the claims (i.e., provide proper antecedent basis for "the" and "said" within each claim such as in claim 21 (line 2) and claim 32 (line 2) ("the Internet") should be -an internet-). Minor typographical errors could render a Patent unenforceable and so the applicant is strongly encouraged to aid in this endeavor.
8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this action:

**A person shall be entitled to a patent unless -**

**(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.**

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**(b) the invention was patented or described in a printed publication in this or foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.**

9. Claims 15-36 are rejected under 35 U.S.C. 102 (a) and/or 35 U.S.C. 102(b) as being clearly anticipated by Peter Alfredsen Seti@Home FAQ as presented in examiner's prior action.

10. Prior to addressing the grounds of the rejections below, should this application ever be the subject of public review by third parties not so versed with the technology (i.e., access to IFW through Public PAIR (as found on <http://portal.uspto.gov/external/portal/pair>)), this Office action will usually refer an applicant's attention to relevant and helpful elements, figures, and/or text upon which the Office action relies to support the position taken. Thus, the following citations are neither all-inclusive nor all-exclusive in nature *as the whole of the reference is cited* and relied upon in this action as part of the substantial evidence of record. Also, no temporal order was claimed for the acts and/or functions.

11. The rejection, and grounds for rejection, under 35 U.S.C. 102(a) and/or 35 U.S.C. 102(b) as presented in examiner's prior Office Action, are hereby maintained and incorporated in this Office Action by reference.

12. The applicant's 13 June 2005 response argued the above mentioned rejection, and grounds of rejection, by stating in substance that in rejecting claim 15, examiner asserts that page 31 (section 2.14) of Seti@Home teaches "receiving the module from the second server through the computer network." Specifically, section 2.14 of Seti@Home discloses that "[w]hen you are ready to connect to the Internet ... you can make the client send results and retrieve a new Work Unit" and "[d]epending on the load at the Berkeley servers, within 5 minutes you will have sent your results and received new work to do." Moreover, section 1.5 of Seti@Home appears to define a Work Unit as data that has been recorded on high density tapes at the Arecibo telescope in Puerto Rico, mailed to Berkeley, divided into 0.25 Mbyte chunks, and sent from the Seti@Home server "over the internet to people around the world to analyze." As exemplarily described at pages 2 and 37-38 of the present application, however, the presently claimed "module" actually includes application-specific executable code in addition to code configuration and/or reference data. A "module" is neither pure data nor pure data that is to be analyzed, as apparently asserted by examiner. The applicant submit that the term "module", as used within the context of the present application, has a well known and accepted meaning that, at the least, encompasses a routine capable of performing a particular task. Indeed, and as supported by the specification, application data to be analyzed by the "module" can be separately retrieved by the "module" code at execution time. Thus, the applicant respectfully submits that the "Work Unit" disclosed in Seti@Home is not a "module" as presently recite in claim 15. **However**, a module actually containing active code has not been claimed. A "module" need not refer *only* to "application module" and/or "software module" and/or "program module", and/or exc..., as is also known in the art "data module" within 3,058 Patents and scores upon scores of technical manuals. The applicant is arguing a limitation not found within the claims. The closest

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limitation would be akin to claim 23 which states "suspends execution of the module", but then when the data within a data module is being processed the module is begin executed. Also, raw data can be viewed as executable code in a data driven computer (i.e., player piano). That is to say, a table of raw data would control a robotic device such as a table with each line entry of (direction time [i.e., left 60sec])). Thus, a "Work Unit", when reading the claims in light of a reasonable interpretation, was/is a module; specifically, a computer functions differently on data  $\sin(x)$  then it does with data  $\cos(x)$ . Technically, all data is/was code to a computer since such affected to the opening and closing of tiny gates (transistors). An alarm clock is a simple version of one such computer. The data "3:30AM" activates the alarm of a digital clock to indicate the start of another workday for examiner. Thus raw data was a series of instructions to open/close such gates (i.e., Eniac ran only on data, had no stored program, had no program, after appropriate configuration; that is, raw data told the Eniac what to do and how to function). Data was/is the instruction. A data module is akin to a data structure which need not be passive in nature (i.e., data structure driven state machine(s)). Time is data, to which things react. Nonetheless, the Seti Code ran on the client was also a module (screen saver) distributed to the clients as were the host of application modules starting with page 34 of 46. It is also noted that the Seti code (client program or application module) maybe updated from time to time, instructing the client where a newer version maybe retrieved.

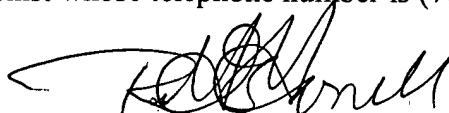
13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

14. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert B. Harrell whose telephone number is (571) 272-3895. The examiner can normally be reached Monday thru Friday from 5:30 am to 2:00 pm and on weekends from 6:00 am to 12 noon Eastern Standard Time.

16. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew T. Caldwell, can be reached on (571) 272-3868. The fax phone number for all papers is (703) 872-9306.

17. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-9600.



**ROBERT B. HARRELL**  
**PRIMARY EXAMINER**